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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: CC Docket No. 96-45, Universal Service

The attached letter was sent today to Julia Johnson, Commissioner of the Florida Public Service Commission. Please associate this with the above referenced proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



cc: Universal Service Joint Board members and staff

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October 30, 1996

Hon. Julia Johnson, Commissioner
Florida Public Service Commission
Capitol Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: CC Docket No. 96-45, Federal-State Joint Board on Universal Service

Dear Ms. Johnson:

On behalf of Pacific Telesis Group, we would like to provide comments on the pending Universal Service docket. We are following up on your question whether the Joint Board and the Commission have the legal authority to implement a large, national fund for purposes of universal service. For the reasons outlined below, we are firmly of the view that the answer is yes. In this regard, we have proposed that the Joint Board:

- 1) Adopt a federal (national) "affordability" standard for basic rates that would apply to all states and all LECs;
- 2) Establish a federal (national) universal service fund sized as the difference between the affordability standard and the cost incurred by the carrier serving the customer;
- 3) Establish a national contribution based on state and interstate telecommunication revenues to fund this obligation;
- 4) Require that qualifying LECs a) eliminate implicit subsidies in interstate rates (access charges), b) eliminate some or all subsidies implicit in intrastate rates, and c) replace these reductions by funding from the federal universal service fund in an amount not to exceed the LECs' entitlement;
- 5) Allow states individually to establish a similar contribution applicable to all state and interstate revenues or charges to fund any costs of universal service not covered by the above mechanism; and,

6) Fund universal service for qualifying schools, health care providers, and libraries through a separate funding mechanism from that proposed in this letter.

In response to your questions about the legal basis for the Joint Board having the authority to enact the above plan, we offer the following rationale:

Section 254 of the Telecommunications Act of 1996 directs the Joint Board and the Commission to ensure that services are "available at just, reasonable, and affordable rates." 47 U.S.C. § 254(b)(1). We believe the inclusion of a requirement of "affordable" rates in the "principles" outlined in Section 254 gives the Commission statutory authority to order a jointly managed state and interstate national fund. A national affordability standard is necessary to ensure "just, reasonable and affordable" rates. Notably, a national affordability standard for universal service would be entirely consistent with the traditional division of regulation between the FCC and states embodied in Section 152(b). The Joint Board process assures that state regulators are a primary source of universal service policies, and states remain free to adopt specific funding mechanisms, as noted below.

Indeed, a national affordability standard would be little different in concept from the existing "unseparated" national affordability standards adopted by the Commission for purposes of high cost funding. See In the Matter of Amendment of Part 67 of the Commission's Rules and Establishment of A Joint Board, Decision and Order, 96 FCC 2d 781, para. 30 (1983). The states and the Commission would be developing, on the basis of unseparated factors, a joint universal service program consistent with the statutory requirements of Section 254. While Section 254 appears to contemplate separate funds, it in no way precludes a single fund jointly administered by the states and the Commission, so long as jurisdictional separations rules are followed and preserved.

Under this joint universal service program, the Joint Board could recommend and the Commission could conclude that a minimum level of funding was necessary throughout the country to ensure "just, reasonable and affordable rates." Furthermore, the Board and Commission could recommend and conclude that it is a joint responsibility of both the interstate and intrastate jurisdictions to ensure that this standard is met. In order to fund this joint responsibility, a single, nationwide surcharge would be calculated, and this surcharge would be shared by the state and interstate jurisdictions based on current separations rules. Here

is an approach for setting up the surcharge in a way that would be consistent with these rules:

- The fundamental premise of the plan would be to ensure that basic rates need not be increased, that any surcharge be offset with reductions in other rates, and that market conditions be created that would lead to future price reductions for consumers.
- A national surcharge could be implemented with no express change in the level of jurisdictional responsibility today (the states would continue to fund approximately 75% of local costs and the interstate jurisdiction would fund 25%).
- The Act's requirement for a competitively neutral (equitable and non-discriminatory), specific and predictable fund could be satisfied in the following manner:
 - First, as noted above, the contribution to universal service could be set to apply to intrastate and interstate revenues in each state.
 - All revenue from the surcharge would be used to offset state and interstate rate reductions. Interstate access charges would be reduced first, with other reductions in state services until all surcharge monies were offset.
 - Initially, high cost companies would receive the larger of the existing high cost support or the new program support to protect against any shortfall in universal service funding.
 - The surcharge funding would apply only to cover the difference between the affordability level and cost. Differences between a state's existing basic exchange rates and the affordability level could be made up with state plans that imposed surcharges on state and interstate usage based services. However, no state would be permitted to decrease basic rates as a result of such surcharge funding.
 - The affordability standard and cost proxy standard would remain in place until changed by the Joint Board. Each year the contribution amount would be recalculated to account for changes in revenues, thus enhancing the predictability of the fund.

- A set of specific changes to the jurisdictional separations rules would be necessary to frame, implement, and administer the national plan.

We hope that the Joint Board will find this information useful and invite you to call me if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "John A. Gueldner FOR".

John A. Gueldner
Vice President-Regulatory

cc: Chairman Reed Hundt
Rachelle Chong
Susan Ness
Kenneth McClure
Sharon Nelson
Laska Schoenfelder
Martha Hogerty
Universal Service Joint Board staff members